

## University of California, Hastings College of the Law UC Hastings Scholarship Repository

---

Propositions

California Ballot Propositions and Initiatives

---

1928

# ACQUISITION OF RIGHTS OF WAY BY STATE

Follow this and additional works at: [http://repository.uchastings.edu/ca\\_ballot\\_props](http://repository.uchastings.edu/ca_ballot_props)

---

### Recommended Citation

ACQUISITION OF RIGHTS OF WAY BY STATE California Proposition 9 (1928).  
[http://repository.uchastings.edu/ca\\_ballot\\_props/238](http://repository.uchastings.edu/ca_ballot_props/238)

This Proposition is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Propositions by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact [marcusc@uchastings.edu](mailto:marcusc@uchastings.edu).

**ACQUISITION OF RIGHTS OF WAY BY STATE.** Assembly Constitutional Amendment 21. Amends Section 14, Article I, of Constitution. Confers upon the State the same power now possessed by municipal corporations and counties to appropriate a right of way without full compensation therefor being first made in money or ascertained and paid into court for the owner, but requires that in any action to acquire such right of way security shall be given for immediate payment to the owner of just compensation for the property so taken as soon as the amount thereof can be ascertained according to law.

YES

NO

(For full text of Measure see page 32, Part II)

**Argument in Favor of Assembly Constitutional Amendment No. 21**

This proposed amendment to section 14, article 1, of the constitution, amends the present constitutional provision which relates to and defines the power of eminent domain in the taking of private property for public purposes.

The purpose of this amendment is to clarify and make consistent the existing law by conferring upon the people of the State of California, as the sovereign power, the same rights and privileges as are enjoyed by minor subdivisions of the state under the existing statute, in the setting off of any special benefits that might result to an owner's property as the result of a public improvement, in determining the compensation that must be paid therefor, in the taking of a portion thereof for a public use.

Surely, it would be a faulty and ill-advised argument, from any standpoint, that would

seek to exclude and prevent the sovereign power itself, that is, the entire people of the State of California, from enjoying the same rights and privileges as have been and are granted under existing statute to municipal corporations and counties of the state, whose authority and right to the enjoyment of the same issue from and by and through this same sovereign power.

The other changes in this statute, in one case punctuation and in the other case in the wording, have been made in the interest of clarity and usage.

This amendment is eminently just and fair, and will protect adequately both the public interest and private rights and will at the same time clarify and make consistent the existing law.

By all means vote—YES.

ROBERT B. McPHERSON,  
Assemblyman, Tenth District.

forty cents for each horsepower or major fraction thereof of such motor vehicle and a proportionate amount thereof for the registration of such vehicle for a period of less than one year. The horsepower of any motor vehicle, except electric or steam driven vehicles, shall be determined by the formula commonly known as that of the Association of Licensed Automobile Manufacturers (A. L. A. M.), being as follows: Square the diameter of the cylinder in inches, multiply by the number of cylinders, and divide by two and five-tenths; provided, that for the purposes hereof the horsepower of any steam driven motor vehicle shall be the horsepower

rating fixed and advertised by the manufacturer thereof. In the event that registration fees for electric motor vehicles and fees based on horsepower as hereinabove specified shall be collected all such fees shall be paid into the motor vehicle fund of the State of California, and shall be distributed and used for such purposes as may be provided by law for the distribution and use of said motor vehicle fund; and provided, further, that in the event the provisions of this section, relative to registration fees, based upon horsepower rating, shall become effective the provisions of this section contained in subdivisions (a) and (b) shall be deemed to be superseded.

**ACQUISITION OF RIGHTS OF WAY BY STATE.** Assembly Constitutional Amendment 21. Amends Section 14, Article I, of Constitution.

Confers upon the State the same power now possessed by municipal corporations and counties to appropriate a right of way without full

9 compensation therefor being first made in money or ascertained and paid into court for the owner, but requires that in any action to acquire such right of way security shall be given for immediate payment to the owner of just compensation for the property so taken as soon as the amount thereof can be ascertained according to law.

YES

NO

Assembly Constitutional Amendment No. 21—  
A resolution to propose to the people of the State of California an amendment to section fourteen of article one of the constitution of said state, relating to the rights of private property.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California, at its forty-seventh regular session, commencing on the third day of January, 1927, two-thirds of all the members elected to each of the two houses voting in favor thereof, hereby proposes to the people of the State of California that section 14 of article I of the constitution be amended to read as follows:

**PROPOSED AMENDMENT**

(Proposed changes in provisions are printed in black-faced type)

Sec. 14. Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for, the owner, and no right of way shall be appropriated to the use of any corporation, except a municipal corporation or a county or the state until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefits from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law; provided, that in an action in eminent domain brought by the state, or a county, or a municipal corporation, or a drainage, irrigation, levee, or reclamation district, the aforesaid state or political subdivision thereof or district may take immediate possession and use of any right of way required for a public use whether the fee thereof or an easement therefor be sought upon first commencing eminent domain proceedings according to law in a court of competent jurisdiction and thereupon giving such security in the way of money deposited as the court may determine to be reasonably adequate to secure to the owner of the property sought to be taken immediate payment of just compensation for such taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property, as soon as the same can be ascertained according to law. The court may, upon motion of any party to said eminent domain proceedings, after such notice

to the other parties as the court may prescribe, alter the amount of such security so required in such proceedings. The taking of private property for a railroad run by steam or electric power for logging or lumbering purposes shall be deemed a taking for a public use, and any person, firm, company or corporation taking private property under the law of eminent domain for such purposes shall thereupon and thereby become a common carrier.

**EXISTING PROVISIONS**

Sec. 14. Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for, the owner, and no right of way shall be appropriated to the use of any corporation, except a municipal corporation or a county, until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law; provided, that in an action in eminent domain brought by the state, or a county, or a municipal corporation, or a drainage, irrigation, levee, or reclamation district, the aforesaid state or political subdivision thereof or district may take immediate possession and use of any right of way required for a public use whether the fee thereof or an easement therefor be sought upon first commencing eminent domain proceedings according to law in a court of competent jurisdiction and thereupon giving such security in the way of money deposits as the court in which such proceedings are pending may direct, and in such amounts as the court may determine to be reasonably adequate to secure to the owner of the property sought to be taken immediate payment of just compensation for such taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property, as soon as the same can be ascertained according to law. The court may, upon motion of any party to said eminent domain proceedings, after such notice to the other parties as the court may prescribe, alter the amount of such security so required in such proceedings. The taking of private property for a railroad run by steam or electric power for logging or lumbering purposes shall be deemed a taking for a public use, and any person, firm, company or corporation taking private property under the law of eminent domain for such purposes shall thereupon and thereby become a common carrier.